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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-448

11 **JUDITH ANN TALABA**
12 **3340 Gold Ct.**
13 **Broomfield, CO 80020**
14 **Registered Nurse License No. 676704**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

15
16 **FINDINGS OF FACT**

17 1. On or about February 16, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
19 of Consumer Affairs, filed Accusation No. 2012-448 against Judith Ann Talaba (Respondent)
20 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

21 2. On or about March 28, 2006, the Board of Registered Nursing (Board) issued
22 Registered Nurse License No. 676704 to Respondent. The Registered Nurse License expired on
23 August 31, 2007, and has not been renewed.

24 3. On or about February 16, 2012, Respondent was served by Certified and First Class
25 Mail copies of the Accusation No. 2012-448, Statement to Respondent, Notice of Defense,

26 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
27 and 11507.7) at Respondent's address of record which, pursuant to California Code of
28

1 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
2 which was and is:

3 3340 Gold Ct.
4 Broomfield, CO 80020.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about February 29, 2012, both the Certified Mail and First Class Mail
9 documents were returned by the U.S. Postal Service marked "Return to Sender" and "Unable to
10 Forward." The address on the documents was the same as the address on file with the Board. On
11 or about Respondent failed to maintain an updated address with the Board and the Board has
12 made attempts to serve the Respondent at the address on file. Respondent has not made herself
13 available for service and therefore, has not availed herself of her right to file a notice of defense
14 and appear at hearing.

15 6. Government Code section 11506 states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the respondent
17 files a notice of defense, and the notice shall be deemed a specific denial of all parts
18 of the accusation not expressly admitted. Failure to file a notice of defense shall
19 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
20 may nevertheless grant a hearing.

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
22 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
23 448.

24 8. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent.

9 Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 2012-448, finds
3 that the charges and allegations in Accusation No. 2012-448, are separately and severally, found
4 to be true and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$272.50 as of March 15, 2012.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Judith Ann Talaba has subjected
10 her Registered Nurse License No. 676704 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
13 Nurse License based upon the following violations alleged in the Accusation which are supported
14 by the evidence contained in the Default Decision Evidence Packet in this case:

15 a. Violating Business and Professions Code section 2761, subdivision (a)(4), which
16 authorizes discipline by the Board when disciplinary action is taken by other states, because her
17 Colorado Nursing license was revoked in 2008 for habitual use or addiction to alcohol or habit-
18 forming controlled substances.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED July 12, 2012

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2012-448

11 **Judith Ann Talaba**

12 **3340 Gold Court**
13 **Broomfield, CO 80020**

14 **Registered Nurse License No. 676704**

15 Respondent.

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about March 28, 2006, the Board of Registered Nursing issued Registered
23 Nurse License Number 676704 to Judith Ann Talaba ("Respondent"). The Registered Nurse
24 license expired on August 31, 2007 and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws:
28

1 4. Section 2750 of the Business and Professions Code (all section references are to the
2 Business and Professions Code unless otherwise noted) provides, in pertinent part, that the Board
3 may discipline any licensee, including a licensee holding a temporary or inactive license, for any
4 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5 5. Section 2764 provides, in pertinent part, that the expiration of a license shall not
6 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
7 to render a decision imposing discipline on the license. Under Section 2811 subdivision (b) the
8 Board may renew an expired license at any time within eight years after the expiration.

9 6. Section 118 subdivision (b) also grants the Board jurisdiction over suspended,
10 expired, forfeited, cancelled, or surrendered licenses:

11 "The suspension, expiration, or forfeiture by operation of law of a license issued by a
12 board in the department, or its suspension, forfeiture, or cancellation by order of the
13 board or by order of a court of law, or its surrender without the written consent of the
14 board, shall not, during any period in which it may be renewed, restored, reissued, or
15 reinstated, deprive the board of its authority to institute or continue a disciplinary
16 proceeding against the licensee upon any ground provided by law or to enter an order
17 suspending or revoking the license or otherwise taking disciplinary action against the
18 licensee on any such ground."

19 7. Section 2761, which is part of Article 3 of the Nursing Practice Act, provides, in
20 pertinent part:

21 "The board may take disciplinary action against a certified or licensed
22 nurse or deny an application for a certificate or license for any of the following:

23 "(a) Unprofessional conduct, which includes, but is not limited to, the
24 following:

25 ...

26 "(4) Denial of licensure, revocation, suspension, restriction, or any other
27 disciplinary action against a health care professional license or certificate by another
28 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action..."

COST RECOVERY

8. Section 125.3 provides, in pertinent part, that the Board, Registrar, or Director may
request the administrative law judge to direct a licensee found to have committed a violation or

violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Disciplinary Action by the Colorado Board of Nursing)

9. Respondent is subject to disciplinary action under Section 2761 subdivision (a)(4) because the Colorado Board of Nursing ("Colorado Board") revoked her license to practice nursing in Colorado in 2008. The circumstances of the Colorado Board's disciplinary action are as follows:

10. On or about January 29, 2008, the Colorado Board issued a decision and final order revoking Respondent's license to practice nursing in that state. Based upon findings of fact showing Respondent had on numerous occasions abused alcohol or controlled substances, the Colorado Board's decision concluded Respondent was addicted to or dependent on alcohol or habit-forming drugs or was a habitual user of controlled substances. The incidents it cited included:

- Colorado convictions in 2003 for public consumption or display of marijuana and possession of drug paraphernalia;

- A Colorado conviction in 2004 for driving while ability impaired;

- Colorado convictions in 2006 for felony possession of a controlled substance and misdemeanor possession of drug paraphernalia; and

- A 2007 complaint from a home health care provider that Respondent was using marijuana and unable to practice safely.

11. Under Section 2761 subdivision (a)(4) the revocation of Respondent's Colorado nursing license by the Colorado Board are grounds for the California Board to take disciplinary action.

PRAYER

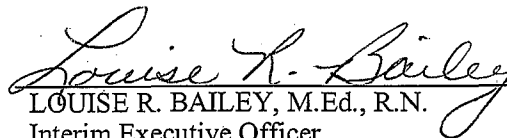
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1 1. Revoking or suspending Registered Nurse License Number 676704, issued to Judith
2 Ann Talaba;

3 2. Ordering Judith Ann Talaba to pay the Board of Registered Nursing the reasonable
4 costs of the investigation and enforcement of this case, pursuant to Business and Professions
5 Code Section 125.3;

6 3. Taking such other and further action as deemed necessary and proper.
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9 DATED: February 16, 2012


LOUISE R. BAILEY, M.Ed., R.N.
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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